

# LINDEMANN LAW

**Dr. Alexander Lindemann**

360° International Sanctions Compliance  
– The Best Practice | Plenary Session at  
Caspian Week Forum



# Do US/EU/CH-Sanctions apply in third countries?

- ✓ United States, the European Union and Switzerland in close cooperation partner countries have adopted unprecedented **tough sanctions against Russia, Balarus and Iran.**
- ✓ According to experts Western sanctions have only partly been successful. There are reasons to believe that Rusia is continuing to access restricted Western goods through supply chains running through **China, Turkey, United Arab Emirates and Central Asia including Georgia and Armenia.**
- ✓ US and EU are stepping up its „sanction diplomacy“ with countries that are known as „**circumvention hubs**“
- ✓ Source: Briefing on EU Sanctions dated 19th September 2023 by **European Parliamentary Services**



# President of Kazakhstan Kassym-Jomart Tokayev with German Chancellor Olaf Scholz on September 28 in Berlin



Kazakhstan will not help Russia circumvent Western sanctions imposed over the war in Ukraine:

"Kazakhstan has unambiguously stated that it will follow the sanctions regime"

By RFE/RL's Kazakh Service by 28<sup>th</sup> September 2023

# United Arab Emirates: Financial Sanctions & Export Controls



- ✓ Businesses operating in the UAE must comply with financial sanctions to avoid financial damages and legal repercussions.
- ✓ Further: United Arab Emirates considers Export Controls for chips and other sanctioned components

Bloomberg, 21 September 2023

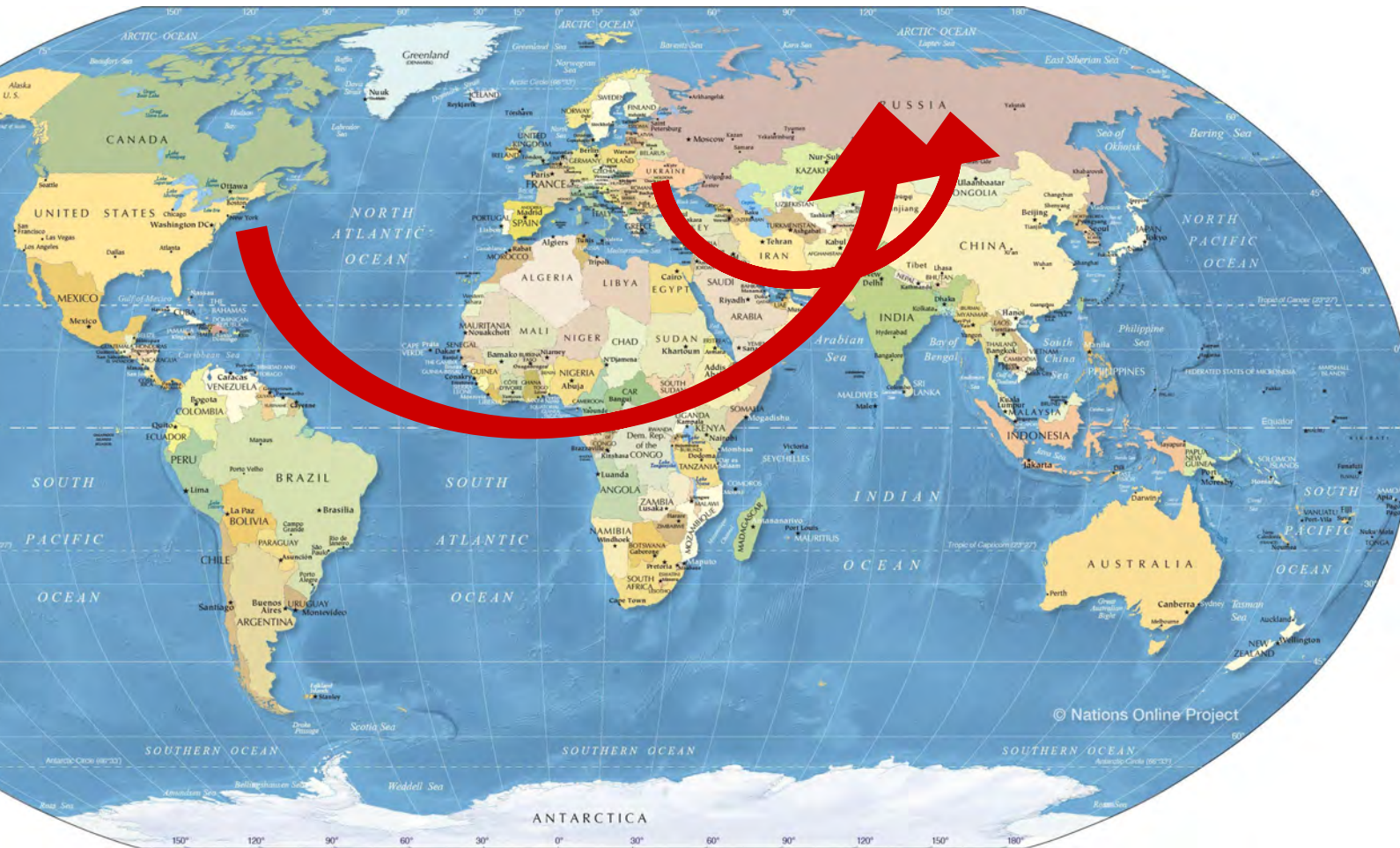
# The US Treasury, State and Commerce Department sanctions UAE, Turkish, and Chinese entities that Russia uses 'to resupply its military'.



- ✓ New US sanctions involve 130 targets against procurement of dual use goods as well as illicit financial support
- ✓ Aim to disrupt supply chain
- ✓ Individuals and entities are based a.o. in UAE, Turkey, Uzbekistan and China

Le Monde Published on November 2, 2023

# How are US/EU/CH-Sanctions enforced in third countries?



- ✓ **US/EU/CH-Operators** may be criminally liable
- ✓ **US/EU/CH-Authorities** may put persons and companies in third countries on official list for secondary sanctions
- ✓ **US/EU/CH-Banks** may reject payments for transactions with risk of circumvention

# Your Experts

- ✓ **Matthew Bryza** at Ballard Partners (governmental affairs firm) and a former U.S Ambassador to Azerbaijan (ret.)
- ✓ **Michael (Mike) Parker**, a Partner at Arktouros law firm and an Adjunct Professor of National Security Law in the Georgetown University Security Studies Program, a former federal prosecutor with the U.S. Department of Justice's Money Laundering and Asset Recovery Sector (MLARS) and a former Sanctions Investigator and Section Chief of OFAC's enforcement Division
- ✓ **Dr. Tatiana Zakharova, LL.M.**, Expert of EU and Swiss Sanctions, Head of Sanctions at LINDEMANNLAW
- ✓ **Dr. Alexander Lindemann**, Managing Partner LINDEMANNLAW, President Swiss Capital Market Forum



# International Sanctions Compliance-Best Practice in the EU and Switzerland

By Dr. Tatiana Zakharova

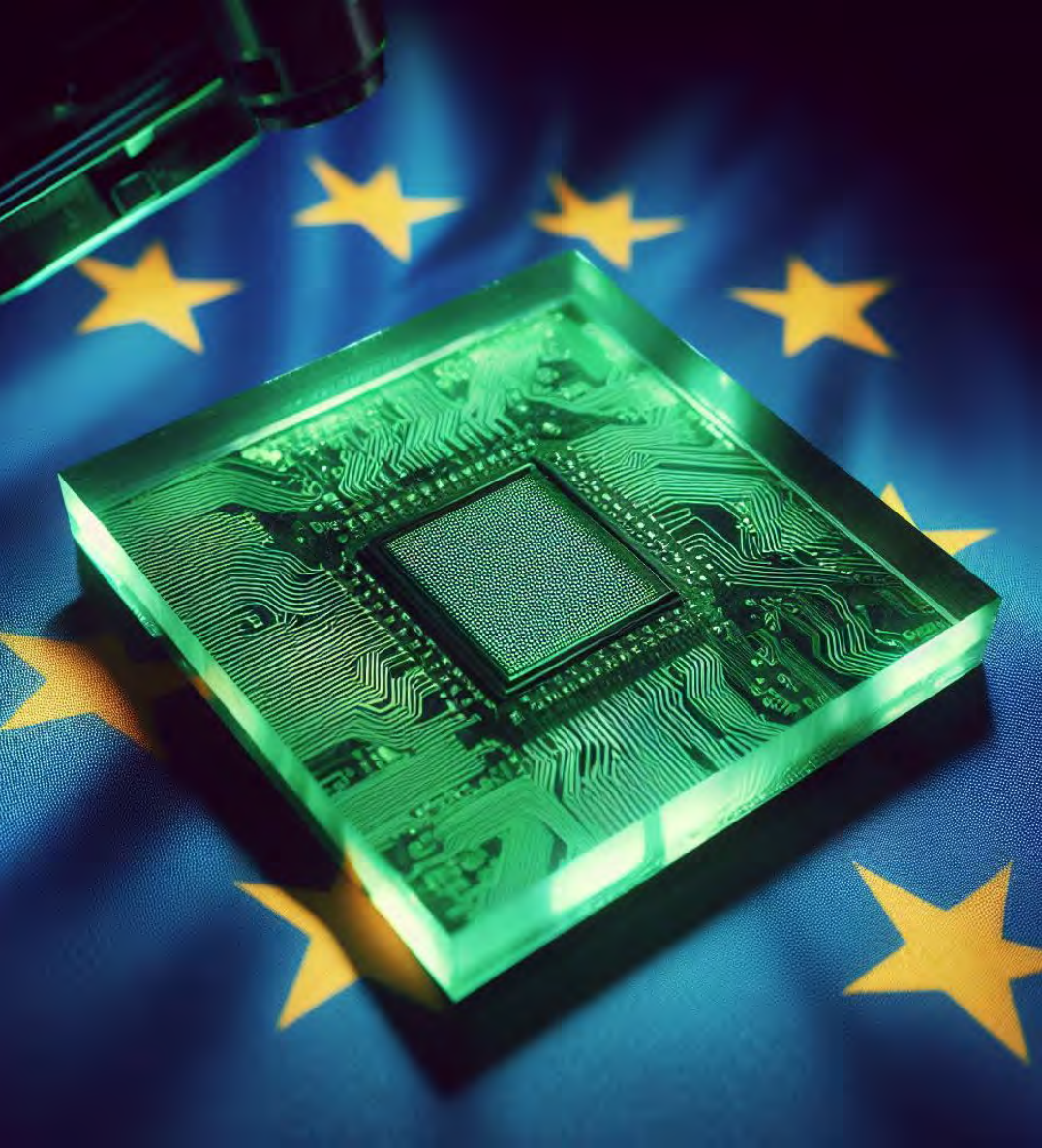






# Legalization of Parallel Import in Russia

- ✓ Prohibited until 2022 in Russia by the Russian Civil Code: goods could be imported directly by the copyright holder itself or with its permission
- ✓ in March 2022, the Russian Government, in response to international sanctions, adopted a list of goods to which the protection of the Civil Code does not apply. Such lists included cars, consumer electronics, electronic components, textiles, equipment, medical devices
- ✓ Parallel import is the import from abroad into the EAEU countries by importers of original goods marked with the trademark of the copyright holder, but without his consent. It occurs in parallel with official importation through dealers authorized by the copyright holders



# Guidance for EU companies to prevent sanctions circumvention

As part of the 11th package published on 7 September 2023

- ✓ Risk assessment of business activity and analysis and prevention (e.g. EU manufacturer of semiconductors need to look for emerging patterns)
- ✓ Enhanced Due Diligence at three levels of stakeholders, transaction and goods
- ✓ Best practice: include clauses in contract with counterparties prohibiting re-export to Russia
- ✓ EU banks that maintain correspondent accounts for FFI have to set up appropriate due diligence framework, monitor transactions related to correspondence accounts
- ✓ If sanctioned item is exported to a third country and re-exported to Russia, competent authorities may consider that the EU exporter has violated the EU sanctions
- ✓ On 6 July 2023 the European Parliament adopted a report on a proposal for a directive on the definition of criminal offences and penalties for the violation of EU restrictive measures (under negotiations)

# Anti-Circumvention tool as part of the EU 11<sup>th</sup> sanctions package



- ✓ Anti-Circumvention tool - last resort to restrict or stop the export of specified sanctioned goods and technology (especially sensitive dual-use goods and technology) to certain countries with high risk of circumvention (unanimous vote of the Council).
- ✓ Before resorting to this extraordinary measure:
  1. Strengthen cooperation with governments of these countries and
  2. Apply targeted measures addressing third country business operators. 87 entities, including registered in China, Kazakhstan, UAE and Armenia are now subject to higher export restrictions with respect to dual use goods and technologies.

# THANK YOU!

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